



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Cordev, Inc.

File: B-275596

Date: March 7, 1997

Jerry Willis for the protester.

Maj. Samuel T. Stevenson, Esq., Department of the Army, for the agency.

Paula A. Williams, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Although awardee's technical proposal did not include the labor hours for each employee as required by the solicitation, this information was contained in awardee's price proposal and therefore the agency reasonably was able to determine the awardee's labor hours for each employee identified in its staffing plan.

DECISION

Cordev, Inc. protests the award of a contract to TechDyn Systems Corporation by the Department of the Army, under request for proposals (RFP) No. DABT57-96-R-0016, to perform the operation and maintenance of the administrative telephone and telecommunications services at Fort Eustis, Fort Monroe, and Fort Story, located in Newport News, Hampton, and Virginia Beach, Virginia. Cordev challenges the agency's evaluation of the awardee's proposed staffing plan.¹

We deny the protest.

¹Initially, Cordev challenged the agency's price/technical tradeoff. In its report on the protest, the Army provided support for its relative technical assessment and price/technical tradeoff. Since the protester did not address this issue in its comments, we consider the protest ground to be abandoned. Fisons Instruments, Inc., B-261371, July 18, 1995, 95-2 CPD ¶ 31. The only issue before us is whether the underlying technical evaluation of TechDyn's staffing approach was proper.

The three Army installations to be serviced by this contract are home to a major Army command responsible for all Army training, the school responsible for training Army transportation specialists, and a frequently deployed brigade unit.² The operation and maintenance services to be provided under this solicitation include preventive maintenance, demand maintenance, and telephone switchboard services at each site. The demand maintenance services identified in the statement of work (SOW) include emergency restoration of telecommunication services within 1 hour during duty hours and 4 hours during nonduty hours.

The RFP contemplated the award of a fixed-price contract for a 5-year term with numerous contract line items (CLINs) divided into fixed-price CLINs and indefinite quantity, delivery order CLINs. The RFP requested submission of technical and price proposals and provided detailed instructions for their preparation. An offeror was required to demonstrate its understanding of the work to be performed through its technical approach and demonstrate that its proposed staff had the expertise and experience necessary to perform the required services.

The RFP identified required key personnel, and as part of their technical proposal, offerors were to submit a detailed staffing plan which identifies all full-time, part-time and subcontractor personnel "by name and title" along with resumes, and certifications for each employee. Award would be made to the offeror whose proposal represents the best value to the government, technical, management, past performance, and price evaluation factors considered. The technical evaluation factor and subfactors were weighted more important than the management evaluation factor and subfactors which were more important than either the past performance or price factor. Price proposals were to be evaluated to determine reasonableness and realism.

Eleven firms submitted timely initial offers, including Cordev and TechDyn. Technical proposals were evaluated by a technical evaluation team using an adjectival and weighted numerical rating system to determine each proposal's technical score.³ The technical proposals of TechDyn and Cordev were each rated "good" with TechDyn's assigned the highest point score and Cordev's the second

²The solicitation replaces three separate operation and maintenance contracts; Cordev was the incumbent contractor for the Fort Story installation.

³The evaluators assigned raw point scores under each evaluation factor and subfactor based upon a point scale from 0 to 10 which were equated with adjectival ratings. A numerical rating from 9 to 10 represented an "exceptional" rating; from 7 to 8 a "good" rating; from 5 to 6 an "acceptable" rating; from 3 to 4 a "marginal" rating; and 0 to 2 an "unacceptable" rating.

highest.⁴ In evaluating proposals, the agency found that TechDyn proposed the highest number of permanently assigned labor positions--expressed as full time equivalents (FTEs)--at each of the three sites in the labor categories. The agency concluded that TechDyn's staffing would enable the firm to meet the response times listed in the SOW for restoration of certain critical telecommunication services.⁵ In contrast, Cordev proposed slightly fewer FTE's and included the "sharing" of certain personnel between the Fort Eustis and Fort Monroe installations which resulted in a lower score because the agency considered that this staffing approach could adversely affect Cordev's ability to meet the critical restoration response times given the agency's experience with similar labor "sharing" arrangements.⁶ TechDyn's total evaluated price was \$5,250,559.35; Cordev's evaluated price was \$4,478,454.75.

The contracting officer, the source selection official for this procurement, reviewed the relative standing of the offerors, including the evaluated advantages and disadvantages in their proposals. The contracting officer concluded that TechDyn's technical proposal was superior to Cordev's and that this technical superiority justified the payment of a price premium to TechDyn. In doing so, the contracting officer noted that the difference in price between TechDyn and Cordev was due primarily to the additional FTEs proposed for each site and that this price premium was offset by the need to assure timely restoration of services because even short term outages can severely impact the operations at the three installations. The contract was awarded to TechDyn on the basis of its initial proposal. After a debriefing by the agency, Cordev filed this protest.

Cordev asserts that the agency's technical analysis of TechDyn's staffing plan was flawed because TechDyn's technical proposal did not include the number of hours for each full-time and part-time employee and that the evaluators erroneously calculated the staffing and hours of service to be provided at each site.

The contracting agency is responsible for evaluating the data submitted by an offeror and ascertaining if it provides sufficient information as required by the

⁴Our discussion of the respective contents and evaluation of TechDyn's and Cordev's proposals is necessarily general because no protective order was issued inasmuch as the protester did not employ legal counsel.

⁵The agency's independent government estimate, which was not listed in the RFP, contained a minimum staffing of 24 FTE employees.

⁶The agency reports that the incumbent contractor at the Fort Eustis and Fort Monroe installations had a similar labor sharing arrangement which resulted in slow response times in restoring services and responding to work orders.

solicitation to determine the technical conformance or acceptability of the offeror's proposal; we will not disturb this technical determination unless it is shown to be unreasonable. SAIC Computer Sys., B-258431.2, Mar. 13, 1995, 95-1 CPD ¶ 156; Inframetrics, Inc., B-257400, Sept. 30, 1994, 94-2 CPD ¶ 138. Our review of the record (including each evaluator's handwritten notes, consensus reports, price analysis, and the proposals submitted by TechDyn and Cordev) provides no basis to object to the agency's evaluation of TechDyn's proposed staffing plan.

Although TechDyn's technical proposal did not include the labor hours for each employee as required by the RFP, it contained site assignments which identified, by labor category, the names and number of employees proposed and their status as either full-time or part-time employees. Moreover, TechDyn's pricing schedule and cost matrix contained priced hours by labor category under each CLIN for all full-time and part-time employees identified in its technical proposal. From this, the agency evaluators were able to determine the labor hours for TechDyn's proposed full-time and part-time employees despite TechDyn's failure to list the actual number of hours for each employee in its staffing plan. We see nothing improper or unreasonable with the agency's evaluation method since it effectively captured precisely what TechDyn was proposing.

Further, the record supports the agency's conclusion that TechDyn proposed more FTEs than either Cordev proposed or as estimated by the agency as the minimum staffing necessary. While the protester argues that the evaluators' calculations of TechDyn's proposed staffing and hours of service at each site were erroneous, this argument is based solely on sections of TechDyn's actual proposal which the agency impermissibly included in Cordev's copy of the agency report. The complete evaluation record shows that the agency's conclusions regarding what each offeror proposed was reasonably based on the information contained in the proposals. In short, we find no merit to this protest issue.

The protest is denied.⁷

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⁷The protester also claims, without more, that TechDyn's proposal included an allegedly fraudulent certification from its proposed site manager. There is no evidence that TechDyn acted in bad faith in submitting the certification or that the firm did not obtain the individual's consent. Unisys Corp., B-242897, June 18, 1991, 91-1 CPD ¶ 577. To the extent the protester believes this individual ultimately will not perform under the contract, we think this allegation concerns a matter of contract administration and is not for our review. Bid Protest Regulations, section 21.5(a), 61 Fed. Reg. 39039, 39045 (1996) (to be codified at 4 C.F.R. § 21.5(a)).

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